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Attorneys for North Star Trust Company

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS FERNANDEZ, LORA SMITH,  
and TOSHA THOMAS

Plaintiffs,

vs.

K-M INDUSTRIES HOLDING CO., INC.;  
K-M INDUSTRIES HOLDING CO., INC.  
ESOP PLAN COMMITTEE; WILLIAM  
E. AND DESIREE B. MOORE  
REVOCABLE TRUST; TRUSTEES OF  
THE WILLIAM E. AND DESIREE B.  
MOORE REVOCABLE TRUST;  
ADMINISTRATOR OF THE ESTATE OF  
WILLIAM E. MOORE, DECEASED; CIG  
ESOP PLAN COMMITTEE; and NORTH  
STAR TRUST COMPANY,

Defendants.

Case No. C06-07339 CW

**STIPULATION AND [PROPOSED]  
ORDER MODIFYING CASE  
MANAGEMENT SCHEDULING ORDER  
FOR REASSIGNED CIVIL CASE**

WHEREAS, this action was reassigned to this Court from the Honorable Martin J.

Jenkins;

WHEREAS, this Court entered a Case Management Scheduling Order for Reassigned Civil Case ("Scheduling Order") on March 5, 2008, modifying Judge Jenkins's December 16, 2007 Pre-Trial Order;

WHEREAS, the Scheduling Order set July 31, 2008, as the deadline for hearing motions for summary judgment on the issue of statute of limitations;

1 WHEREAS, Defendants filed their respective motions for summary judgment and noticed  
2 the hearings on those motions for July 31, 2008;

3 WHEREAS, on July 17, 2008, after the briefing on the Defendants' motions for summary  
4 judgment had been completed but before the motions were heard, the parties filed a Stipulation  
5 and [Proposed] Order continuing the hearing on Defendants' motions to September 11, 2008, so  
6 that the parties could participate in a private mediation on August 18, 2008;

7 WHEREAS, after the parties filed their Stipulation and [Proposed] Order continuing the  
8 hearing on the Defendants' motions, one of the parties essential to the mediation became  
9 unavailable for the scheduled mediation. The first day after August 18, 2008 on which the  
10 mediator, Mr. Tony Piazza, and all of the parties were available to participate in the mediation  
11 was September 12, 2008, the day *after* the stipulated hearing date on the Defendants' motions for  
12 summary judgment. The parties have reserved September 12, 2008, with Mr. Piazza;

13 WHEREAS, the parties continue to believe that mediation is likely to be more productive  
14 if it is conducted before the Court holds the hearing on Defendants' motions for summary  
15 judgment; and

16 WHEREAS, continuing the hearing date on the Defendants' motions to a date subsequent  
17 to the September 12, 2008 mediation necessarily impacts the other dates in the Scheduling Order,

18 NOW THEREFORE AND FOR GOOD CAUSE SHOWN, THE PARTIES HEREBY  
19 STIPULATE and AGREE as follows:

- 20 1. The hearing on Defendants' Motions for Summary Judgment shall be continued to  
21 October 23, 2008, at 2:00 p.m.;
- 22 2. Disclosure of experts and initial reports shall be completed by November 21, 2008;
- 23 3. Disclosure of rebuttal experts and reports shall be completed by December 12,  
24 2008;
- 25 4. Expert discovery shall be completed by January 16, 2009;
- 26 5. Last day for hearing dispositive motions shall be March 27, 2009;

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6. The pre-trial conference shall be held on May 15, 2009; and

7. The bench trial (15 days) shall commence on June 8, 2009.

**IT IS SO STIPULATED:**

I, Donald P. Sullivan, attest, pursuant to General Order No. 45, Rule X, that the undersigned concur in the filing of this Stipulation.

DATED: August \_\_\_\_\_, 2008

LOVITT & HANNAN, INC.

By: /S/ Henry Bornstein

Henry Bornstein  
Attorneys for Defendants K-M Industries  
Holding Co., Inc.; K-M Industries Holding  
Co., Inc. ESOP Plan Committee; and CIG  
ESOP Plan Committee

DATED: August \_\_\_\_\_, 2008

HENNIGAN, BENNETT & DORMAN LLP

By: /S/ Allison Chock

Lauren Smith  
Allison Chock  
Attorneys for Defendants William E. and  
Desiree B. Moore Revocable Trust; Trustee  
of the William E. and Desiree B. Moore  
Revocable Trust; Desiree B. Moore  
Revocable Trust; William E. Moore Marital  
Trust; William E. Moore Generation-  
Skipping Trust; and Desiree Moore

DATED: August \_\_\_\_\_, 2008

MORGAN, LEWIS & BOCKIUS LLP

By: /S/ Donald P. Sullivan

Nicole A. Diller  
Donald P. Sullivan  
Attorneys for Defendant North Star Trust  
Company

DATED: August \_\_\_\_\_, 2008

LEWIS, FEINBERG, LEE, RENAKER &  
JACKSON, P.C.

By: /S/ Daniel M. Feinberg

Daniel M. Feinberg  
Todd Jackson  
Attorneys for Plaintiffs Thomas Fernandez,  
Lora Smith, and Tosha Thomas

**[PROPOSED] ORDER**

FOR GOOD CAUSE SHOWN, it is hereby ordered that the Court's March 5, 2008 Scheduling Order shall be amended as follows:

1. The hearing on Defendants' Motions for Summary Judgment on the issue of statute of limitations shall be continued to October 23, 2008, at 2:00 p.m.;
2. Disclosure of experts and initial reports shall be completed by November 21, 2008;
3. Disclosure of rebuttal experts and reports shall be completed by December 12, 2008;
4. Expert discovery shall be completed by January 16, 2009;
5. Last day for hearing dispositive motions shall be March 27, 2009;
6. The pre-trial conference shall be held on May 15, 2009; and
7. The bench trial (15 days) shall commence on June 8, 2009.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Claudia Wilken  
United States District Judge

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